

ENTERED

December 04, 2018

David J. Bradley, Clerk

Theolonious Paul Henry,

Petitioner,

v.

Lorie Davis,
Director of the Texas Department
of Criminal Justice, Correctional
Institutions Division,

Respondent.

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Civil Action H-18-0703

Order of Adoption

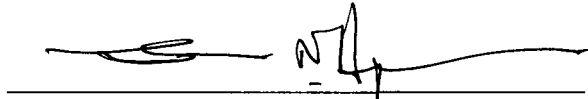
On November 6, 2018, Magistrate Judge Peter Bray recommended that Henry's petition for writ of habeas corpus be denied. (D.E. 19.) Henry has filed objections to the court's recommendation. (D.E. 20.) The objections are actually new claims for habeas relief. (D.E. 20.) Henry argues that the 1997 repeal of Texas Code of Criminal Procedure art. 42.18 § 8(c) violates his Fourteenth Amendment Due Process and Equal Protection rights.

The court construes Henry's objections to be an attempt to amend his petition for writ of habeas corpus. Because Henry did not seek leave to amend his petition, which is required at this late date, his objections are denied. *See* Fed. R. Civ. Pro. 15(a)(2).

The new claims also lack merit. The magistrate judge already concluded that there was no due process violation. (D.E. 19 at 3-4.) Henry has not shown an act of purposeful discrimination by the state. Nor has he shown that he is being treated differently from other similarly situated inmates. There is no equal protection violation. *See McCleskey v. Kemp*, 481 U.S. 279, 292-93 (1987); *Johnson v. Rodriguez*, 110 F.3d 299, 306-07 (5th Cir. 1997).

The petition for writ of habeas corpus is denied with prejudice. A certificate of appealability will not be issued. *See Slack v. McDaniel*, 529 U.S. 473, 484 (2000). The court will issue a separate final judgment.

Signed December 3, 2018, at Houston, Texas.

A handwritten signature in black ink, appearing to read "L. N. Hughes", written over a horizontal line.

Lynn N. Hughes
United States District Judge